

REMARKS

Reconsideration of the application is respectfully requested in view the following remarks. Claims 12 and 13 are under consideration.

***Rejections under 35 U.S.C. §§ 101 and 112, first paragraph (Utility/Enablement)***

Claims 12 and 13 stand rejected under 35 U.S.C. § 101 because the claimed invention allegedly lacks patentable utility due to its not being supported by a specific, substantial, and credible utility or, in the alternative, a well-established utility. The claims also stand rejected under the related section 35 U.S.C. § 112, first paragraph, as allegedly lacking enablement. In particular, the Action contends that the data used to support Applicants' arguments, filed July 7, 2003 in response to the first Office Action mailed February 6, 2003, are not directed to the claimed sequence, but rather to clone R0683G3 (SEQ ID NO:1681). Accordingly, the Action asserts that the over-expression data supports clone R0683G3 but not the claimed invention directed to SEQ ID NO:1788. The Action further contends that since the claimed invention is not supported by a specific, substantial, and credible utility or a well-established utility, one skilled in the art would not know how to use the claimed invention.

Applicants respectfully traverse the rejection on the following grounds. Applicants submit that, given the sequence of clone R0683G3 set forth in SEQ ID NO:1681 and the polynucleotide set forth in SEQ ID NO:1788, the skilled artisan would be able to determine through routine experimentation, that SEQ ID NO:1681 is simply a partial sequence of the full length sequence set forth in SEQ ID NO:1788. This information is readily garnered through routine sequence analysis using any of a variety of computer software programs available in the art. Moreover, the specification clearly discloses a preferred method for determining the percent identity between 2 or more sequences (see for example, at page 56, lines 15 – 28). For the Examiner's convenience, an alignment of the polynucleotides of SEQ ID NO:1681 and 1788 is provided herewith. As shown in the alignment, SEQ ID NO:1681 is 100% identical to the polynucleotide of SEQ ID NO:1788 for more than 400 nucleotides (the entirety of SEQ ID NO:1681 with the exception of the 3'-most nucleotides that would be readily recognized by the skilled artisan as sequence resulting from cloning or sequencing artifact). The skilled person

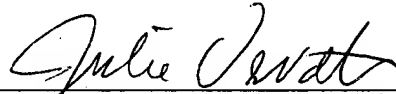
would understand that it is highly unlikely that SEQ ID NO:1681 corresponds to the partial sequence of any sequence other than SEQ ID NO:1788. Further, the skilled artisan would readily appreciate that the full length polynucleotide sequence set forth in SEQ ID NO:1788 would have the same colon-tumor associated expression profile as the partial sequence set forth in SEQ ID NO:1681. Additionally, the skilled artisan would readily appreciate that there is a reasonable expectation that the protein encoded by the polynucleotide of SEQ ID NO:1788 would also be overexpressed in colon tumor tissue as compared to normal tissues. Based on this tumor-associated expression profile, the skilled artisan would understand that the polynucleotide sequence and the protein it encodes may be used in a variety of settings, for example, for immunotherapeutic purposes in individuals with colon cancer and/or as a diagnostic marker for colon cancer. Therefore, Applicants submit that the claimed invention has a specific, substantial, and credible utility, or alternatively, a well-established utility. Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §§ 101 and 112.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicants respectfully submit that all the claims remaining in the application are now believed allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



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